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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/645,483 | 08/22/2003 | Yasuo Sato | 1021.43058X00 | 8730 |

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EXAMINER

GANDHI, JAYPRAKASH N

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2125

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---|------------------------------------|--|
| Office Action Summary | Application No. 10/645,483 | Applicant(s) SATO ET AL. | |
| | Examiner Jayprakash N. Gandhi | Art Unit 2125 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-22 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/23/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For example claim 1, is directed to a method for controlling at least one electrical power-consuming apparatus or electrical power apparatus, in which the claim recites communicating, monitoring, achieving, receiving and implementing however no useful, concrete, and tangible result is produced such as using the claimed data for controlling.

For claim 2, the claimed method recites receiving, monitoring, creating and transmitting but no controlling.

For claim 5, the claimed method recites storing, creating and transmitting but no controlling.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. Claim 2 recites the limitation "the contents" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Nierlich et al. (US 2003/0158632 A1).

Nierlich discloses all the structure limitation of a coordination controller 4 (figure 1), wherein the controller includes, a communication with outside, monitoring current time, synchronizing time, a control schedule (connection thru 12). It is to be noted that, Nierlich, meets the claimed invention as best understood by the examiner (**35 USC § 101, rejection**), which is to control electrical power (TITLE).

Detail Description Paragraph - DETX (18):

[0049] Preferably, the E1-2000 synchronizes its internal clock with the system clock of the management device 10 after it validates its Application Software. Synchronization allows the management device 10 to track load profiles and curtailment events in real-time. The E1-2000 4 then compares the date and time ("timestamp") of its Configuration File with the configuration timestamp stored in management device memory. If the Configuration File attributes differ from the stored attributes, the E1-2000 4 downloads an updated Configuration File that preferably includes the E1-2000 callback frequency, its meter designations, its pulse accumulator device identity, its meter multiplier coefficients, its meter polling frequency, and its Watermark boundaries assigned to each meter the E1-2000 4 supports. All expired data in memory is then flushed before logging off of the management device 10 and disconnecting from the ISP 12.

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Detail Description Paragraph - DETX (19):

[0050] Once the E1-2000 4 is initialized, preferably the E1-2000 4 connects to the ISP 12 in response to a number of events. The E1-2000 connects to the ISP 12 at its ~~scheduled~~ callback intervals, when a Watermark violation occurs, or when initiated by a ring instruction. The ~~scheduled~~ callback intervals establish a standard ~~schedule~~ of connections between the E1-2000 4 and the management device 10. In this event, the E1-2000 4 automatically connects to the management device 10 at programmed intervals at which ~~time~~ the E1-2000 4 uploads all of its meter and operating data to the management device.

Response to Arguments

6. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

7. Claims 12-22 have been allowed.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jayprakash N. Gandhi whose telephone number is 571-272-3740. The examiner can normally be reached on 7:00 - 4:30 (Mon. - Fri.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jayprakash N Gandhi
Primary Examiner
Art Unit 2125

JNG